

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 99-7217**

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REN ABLE GAUSE,

Petitioner - Appellant,

versus

WILLIE WELDON, Warden; CHARLES MOLONY CONDON,  
Attorney General of the State of South  
Carolina,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Greenville. G. Ross Anderson, Jr., District  
Judge. (CA-98-1226-6-13AK)

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Submitted: December 16, 1999

Decided: December 29, 1999

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Before MURNAGHAN and MOTZ, Circuit Judges, and BUTZNER, Senior Cir-  
cuit Judge.

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Dismissed by unpublished per curiam opinion.

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Ren Able Gause, Appellant Pro Se. Donald John Zelenka, Chief Deputy  
Attorney General, Columbia, South Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Ren Able Gause seeks to appeal the district court's order dismissing his 28 U.S.C.A. § 2254 (West 1994 & Supp. 1999) petition. We dismiss the appeal for lack of jurisdiction because Gause's notice of appeal was not timely filed.

Parties are accorded thirty days after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(b)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on December 2, 1998. Gause's notice of appeal was filed on September 2, 1999.\* Because Gause failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are ade-

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\* Under Houston v. Lack, 487 U.S. 266 (1988), the notice of appeal is considered filed as of the date Gause delivered it to prison officials for forwarding to the court. Prison officials stamped "Sep 02 1999" on the envelope containing the notice of appeal to indicate the date they received it from Gause.

quately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED